



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/614,036	07/08/2003	Akiya Saito	239871US6	6715
22850 7590 09/11/2007 OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314				
			EXAMINER ABRISHAMKAR, KAVEH	
			ART UNIT 2131	PAPER NUMBER
			NOTIFICATION DATE 09/11/2007	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com
oblonpat@oblon.com
jgardner@oblon.com

Office Action Summary

Application No.

10/614,036

Applicant(s)

SAITO ET AL.

Examiner

Kaveh Abrishamkar

Art Unit

2131

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 June 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3,4,6 and 9-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3,4,6 and 9-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

Response to Amendment

1. This action is in response to the amendment received on June 13, 2007. Claims 3, 4, and 6 are amended by virtue of the received amendment.
2. Claims 3,4,6, and 9-15 are currently pending consideration.

Response to Arguments

3. Applicant's arguments filed June 13, 2007 have been fully considered but they are not persuasive for the following reasons:
4. The Applicant argues that the Cited Prior Art (CPA), Weiler et al. (U.S. Patent 6,725,205), does not teach "when the medium identification information is detected on the data recording medium by the recording/reproducing apparatus, the designated program is executed." The Applicant argues that the software is installed in response to the hard disk drive having a target serial number, and not when the target serial number is detected on the medium containing the software (see Arguments, page 6, lines 9-11). This argument is not found persuasive. Weiler discloses that each system has an associated serial number (column 4, lines 33-35), wherein a disk drive or any other target system has a serial number (column 4, lines 25-35). But in addition, the CPA teaches that every new or upgraded software has a serial number that is stored in a file, or another predetermined location on the software medium (column 4, lines 13-23). The serial number on the medium and the hard drive must match, therefore, both are detected before installation can proceed (column 4, lines 32-35). Therefore, it is in

Art Unit: 2131

response to the detection of the medium identification information (serial number) on the data recording medium (software distribution medium) that the designated program (upgraded or new software program) is executed (installed). Therefore, it is respectfully asserted that the CPA does teach when the medium identification information is detected on the data recording medium by the recording/reproducing apparatus, the designated program is executed, and the rejection is maintained and applied to the new limitations as given below.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 3-4, 6, 9, and 11-15 are rejected under 35 U.S.C. 102(e) as being anticipated by Weiler et al. (U.S. Patent 6,725,205).

Regarding claim 3, Weiler discloses:

A data recording medium for use with a recording/reproducing apparatus,
comprising:

a medium identification information unique to the data recording medium recorded thereon (column 4 lines 10-18), *wherein the software serial number is recorded on the medium to identify the installation software;*

a plurality of programs recorded on the data recording medium, wherein the medium identification information includes information with which one of the plurality of programs is designated (column 4 lines 26-33), *wherein the serial number associates a particular software with a particular system;*

a starting program, recording on the data recording medium, configured to cause a program of the plurality of programs, designated by the medium identification information, to automatically execute (column 5 lines 42-50, column 6 lines 44-54), *wherein if the disk drive serial number (hardware identification number) is the same as the target serial number (medium identification number) stored on the medium then the software is installed; and*

wherein when the medium identification information is detected on the data recording medium by the recording/reproducing apparatus, the designated program is executed (column 4, lines 10-35), *wherein in response to the detection of the medium identification information (serial number) on the data recording medium (software distribution medium) that the designated program (upgraded or new software program) is executed (installed).*

Claim 4 is rejected as applied above in rejecting claim 3. Furthermore, Weiler discloses:

The data recording medium as set forth in claim 3, wherein the data recording medium is bundled with a hardware device (column 5 lines 42-50, column 6 lines 44-54), *wherein if the disk drive serial number (hardware identification number) is the same as the target serial number (medium identification number) stored on the medium then the software is installed.*

Regarding claim 6, Weiler discloses:

A program starting method for executing a program recorded on a recording medium, comprising:

obtaining medium identification information (column 6 lines 44-54), *wherein the serial numbers between the software medium (medium identification) and the hard disk drive (hardware identification) are compared;*

determining a type that the medium identification information represents (column 6 lines 44-54), *wherein the serial numbers between the software medium (medium identification) and the hard disk drive (hardware identification) are compared to discover if the serial numbers are matched between the type of software and the disk drive;*

selectively executing a program corresponding to the type that the medium identification information represents, the execution being actuated by a starting program recorded on the recording medium (column 5 lines 42-50, column 6 lines 44-54), *wherein if the disk drive serial number (hardware identification number) is the same as the target serial number (medium identification number) stored on the medium then the software is installed; and*

Art Unit: 2131

performing an error process when a hardware identification information does not represent hardware that the medium identification information represents (column 6 lines 10-16), *wherein if the serial numbers do not match, the software is not installed;* and

wherein the program is selectively executed in response to a recording/reproducing apparatus detecting the medium identification information on the recording medium (column 4, lines 10-35), *wherein in response to the detection of the medium identification information (serial number) on the data recording medium (software distribution medium) that the designated program (upgraded or new software program) is executed (installed).*

Claim 9 is rejected as applied above in rejecting claim 3. Furthermore, Weiler discloses:

The data recording medium according to claim 3, wherein said starting program is further configured to verify the medium identification information and a presence of a hardware device (column 5 lines 42-50, column 6 lines 44-54), *wherein if the disk drive serial number (hardware identification number) is the same as the target serial number (medium identification number) stored on the medium then the software is installed.*

Claim 11 is rejected as applied above in rejecting claim 3. Furthermore, Weiler discloses:

The data recording medium according to claim 4, wherein at least one of the plurality of programs is application software for use with the hardware device (Figure 4, column 3 line 64 – column 4 line 8), *wherein the programs, in one embodiment, are used to download software for a voicemail server.*

Claim 12 is rejected as applied above in rejecting claim 3. Furthermore, Weiler discloses:

The data recording medium according to claim 3, wherein the medium identification information includes hardware recognition information (column 5 lines 42-50, column 6 lines 44-54), *wherein if the disk drive serial number (hardware identification number) is the same as the target serial number (medium identification number) stored on the medium then the software is installed.*

Claim 13 is rejected as applied above in rejecting claim 12. Furthermore, Weiler discloses:

The data recording medium according to claim 12, wherein one of the plurality of programs is started based on at least one of a presence or recognition of a hardware device (column 5 lines 42-50, column 6 lines 44-54), *wherein if the disk drive serial number (hardware identification number) is the same as the target serial number (medium identification number) stored on the medium then the software is installed.*

Art Unit: 2131

Claim 14 is rejected as applied above in rejecting claim 6. Furthermore, Weiler discloses:

The data recording medium according to claim 6, wherein the medium identification information includes hardware recognition information (column 5 lines 42-50, column 6 lines 44-54), *wherein if the disk drive serial number (hardware identification number) is the same as the target serial number (medium identification number) stored on the medium then the software is installed.*

Claim 15 is rejected as applied above in rejecting claim 13. Furthermore, Weiler discloses:

The data recording medium according to claim 13, wherein said selectively starting includes a starting of one of the plurality of programs based on at least one of a presence or recognition of a hardware device (column 5 lines 42-50, column 6 lines 44-54), *wherein if the disk drive serial number (hardware identification number) is the same as the target serial number (medium identification number) stored on the medium then the software is installed.*

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Weiler et al. (U.S. Patent 6,725,205) in view of Tanaka (U.S. Patent 6,721,879).

Claim 10 is rejected as applied above in rejecting claim 3. Weiler discloses a plurality of programs stored on a CD-ROM. Weiler does not explicitly disclose that one of the programs is an instruction manual. Tanaka discloses using a user manual to provide the user with guidance in setting up and using the software and/or the hardware (column 13 line 64 – column 14 line 10). In one embodiment of Weiler, a voice mail application is downloaded on a hardware device. It was well-known in the art that user-manuals are stored and associated with devices to aid users in navigating and using a particular hardware device as is disclosed by Tanaka. Furthermore, Weiler is not limiting in his definition of “software” so the programs could include a user manual which could be displayed on the user interface (Figure 1, item 14). Therefore, it would have been obvious to provide a user manual as one of the plurality of programs used by Weiler to guide the user through the functions of the software as disclosed in Tanaka (column 14 lines 1-10).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

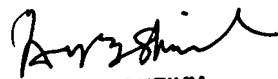
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kaveh Abrishamkar whose telephone number is 571-272-3786. The examiner can normally be reached on Monday thru Friday 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz Sheikh can be reached on 571-272-3795. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2131

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

KA 9/2/07
KA
09/02/2007


AYAZ SHEIKH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100